

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

WILLARD L. SLOAN, EUGENE J.
WINNINGHAM, and JAMES L. KELLEY,

Plaintiffs,

v.

BORGWARNER INC., BORGWARNER
DIVERSIFIED TRANSMISSION
PRODUCTS INC., and BORGWARNER
FLEXIBLE BENEFITS PLANS,

Defendants.

Case 2:09-cv-10918-PDB-MKM

U.S. District Judge Paul D. Borman

U.S. Magistrate Judge Mona K. Majzoub

BORGWARNER'S APPENDIX OF SUMMARY JUDGMENT AUTHORITIES

Tab Authority

Cases

- 1 *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242 (1986)
- 2 *Bauer v. Kraft Foods Global, Inc.*, 277 F.R.D. 558 (W.D. Wis. 2012)
- 3 *BorgWarner Diversified Transmission Prods. Inc. v. UAW, Local No. 287*, No. 1:06-cv-058-LJM-TAB, 2008 WL 4274476, at *1 (S.D. Ind. Sept. 12, 2008)
- 4 *Celotex Corp. v. Catrett*, 477 U.S. 317 (1986)
- 5 *Cole v. ArvinMeritor, Inc.*, 549 F.3d 1064 (6th Cir. 2008)
- 6 *Cox v. Ky Dep't of Transp.*, 53 F.3d 146 (6th Cir. 1995)
- 7 *Diehl v. Twin Disc, Inc.*, 102 F.3d 301 (7th Cir. 1996)
- 8 *Golden v. Kelsey-Hayes Co.*, 954 F. Supp. 1173 (E.D. Mich. 1997)
- 9 *Inter-Modal Rail Employees Ass'n v. Topeka & Santa Fe Ry. Co.*, 520 U.S. 510 (1997)
- 10 *Int'l Union, UAW v. Yard-Man, Inc.*, 716 F.2d 1476 (6th Cir. 1983)
- 11 *Matsushita Elec. Indus. Co. v. Zenith Radio Corp.*, 475 U.S. 574 (1986)

Tab Authority

- 12 *Maurer v. Joy Techs., Inc.*, 212 F.3d 907 (6th Cir. 2000)
- 13 *Noe v. PolyOne Corp.*, 520 F.3d 548 (6th Cir. 2008)
- 14 *Prater v. Ohio Educ. Ass'n*, 505 F.3d 437 (6th Cir. 2007)
- 15 *Reese v. CNH Am. LLC*, 574 F.3d 315 (6th Cir. 2009)
- 16 *Wal-Mart Stores, Inc. v. Dukes*, 131 S. Ct. 2541 (2011)

Statutes and Rules

- 17 Employee Retirement Income Security Act of 1974 § 201, 29 U.S.C. § 1051 (2006)
- 18 Federal Rule of Civil Procedure 56

Other Authorities

- 19 1 Joseph M. Perillo, *Corbin on Contracts* § 4.13 (rev. ed. 1993)

Dated: May 14, 2012

Respectfully submitted,

Elisa Angeli Palizzi (P52088)
(angeli@millercanfield.com)
Miller, Canfield, Paddock and Stone, P.L.C.
150 West Jefferson, Suite 2500
Detroit, Michigan 48226
313.496.7635
313.963.6420 fax

s/Bobby R. Burchfield
Bobby R. Burchfield
(bburchfield@mwe.com)
Joshua David Rogaczewski
(jrogaczewski@mwe.com)
McDermott Will & Emery LLP
600 13th Street, Northwest
Washington, D.C. 20005
202.756.8000
202.756.8087 fax

*Attorneys for BorgWarner Inc., BorgWarner Diversified Transmission Products Inc., and
BorgWarner Flexible Benefits Plans*

CERTIFICATE OF SERVICE

I hereby certify that on May 14, 2012, I electronically filed the foregoing **BorgWarner's Appendix of Summary Judgment Authorities** with the Clerk of the Court using the ECF system which will send notification of such filing to all ECF participants.

s/Bobby R. Burchfield
Bobby R. Burchfield
(bburchfield@mwe.com)
McDermott Will & Emery LLP
600 13th Street, Northwest
Washington, D.C. 20005
202.756.8000
202.756.8087 fax